

## REGULATING AND LICENSING PAWNBROKERS IN THE DISTRICT OF COLUMBIA

JUNE 7, 1956.—Committed to the Committee of the Whole House on the State of  
the Union and ordered to be printed

Mr. McMILLAN, from the Committee on the District of Columbia,  
submitted the following

### R E P O R T

[To accompany H. R. 11002]

The Committee on the District of Columbia, to whom was referred the bill (H. R. 11002) to regulate and license pawnbrokers in the District of Columbia, having considered the same, report favorably thereon with amendments and recommend that the bill H. R. 11002 do pass.

The amendments are as follows:

On page 2, line 8, strike "oher" and insert "other".

On page 2, line 20, strike word "manner" after "Advertising" and insert "matter".

On page 2, line 24, strike word "manner" after "advertising" and insert "matter".

On page 16, line 15, strike word "very" and insert "every".

On page 16, line 18, strike word "small" and insert in lieu thereof "a"; strike "s" from the word "loans".

Page 20, line 9, after the word "amended" insert

insofar as the same applies to the business of lending money  
on the security of the pledge and possession of tangible per-  
sonal property

In essence H. R. 11002, the pawnbroker bill, is a copy of the original Pawnbroker Act for the District of Columbia, approved March 2, 1889 (25 Stat. 1006) as amended March 3, 1891 (26 Stat. 841). From 1889 to 1913 pawnbrokers were licensed and carried on business in the District. During the same period unlicensed money lenders carried on a very extensive business in the District, charging exorbitant rates of interest on small loans. The voracity of these unlicensed lenders was so great that the public demanded relief. The act approved

February 4, 1913 (37 Stat. 657), was enacted primarily to drive these unlicensed money lenders out of the District. It sought to accomplish this purpose by reducing the authorized interest rate on small loans to 1 percent per month on loans of \$200 or less. In the case of *Newman ex rel Prender v. United States* (41 App. D. C. 37), the Court of Appeals of the District of Columbia held that the act of 1913 repealed by implication the Pawnbrokers Act of 1889 and that since the 1913 act authorized the making of loans on collateral security of any kind, tangible or intangible, it covered the pawnbroker business as well as the small-loan business. The net effect of the act of 1913 was to drive legitimate capital out of the District of Columbia so far as small loans and the pawnbroker business are concerned, with the result that persons who would otherwise have patronized licensed lenders were driven to unlicensed, high-rate lenders in the District or to licensed lenders outside of the District.

Testimony by representatives of the Metropolitan Police Department showed that the police department for many years has been relying heavily upon evidence secured from so-called pawnbrokers (in fact dealers in secondhand property) for evidence of larceny and other felonies committed in the District of Columbia. A number of serious crimes, including murder, have been solved with evidence the starting point of which was the tracing of personal property which had been pawned. It was also pointed out that many secondhand dealers are actually engaged in the pawnbroking business, by the process of entering into agreements with persons selling them secondhand personal property to sell the same property back to the seller at stipulated higher prices, the difference of course, representing interest at astronomical rates.

Section 1 of H. R. 11002 contains definitions of terms used in the bill.

Section 2 prohibits engaging in business as a pawnbroker without first obtaining a license from the Commissioners. It further prohibits the use of the word "pawnbroker" or the display of any symbol commonly used by pawnbrokers by any unlicensed business.

Section 3 sets forth qualifications for license, including the requirement that applicants have available for use in the business of making loans cash capital of at least \$20,000.

Section 4 requires applicants to file a bond running to the District in the sum of \$5,000 conditioned upon the compliance by the applicant with provisions of the act and all rules and regulations made pursuant thereto. It authorizes any person injured by noncompliance with law or regulation by a licensee to maintain suit in his own name and recover on the bond such damages as shall be adjudged.

Section 5 provides that after investigation and after satisfying the Commissioners of his qualifications the license shall be issued to the applicant and that the annual license fee shall be \$500.

Section 6 provides for the revocation, suspension and renewal of licenses.

Section 7 imposes upon the Commissioners the duty of enforcing the act; authorizes the Commissioners to investigate the business and records of licensees and authorizes the Commissioners to require by subpoena the production of books, papers, and records and the attendance, and examination under oath, of all persons whose testimony they may require relative to loans of business or licensees.

Section 8 prohibits false or misleading advertising respecting the pawnbroker business.

Section 9 is the interest section. It directs the District Commissioners to investigate from time to time the economic conditions and other factors relating to the business of making pawnbroker loans; to ascertain pertinent facts necessary to determine what maximum rate of interest may be permitted upon the basis of such ascertained facts and to fix by regulation the maximum rate of interest on pawnbroker loans which will induce efficiently managed commercial capital to be invested in such business in sufficient amounts to make available adequate facilities to individuals seeking such loans at reasonable rates of interest and which will afford those engaged in such business a fair and reasonable return upon the assets.

Pending the determination of such rates by the Commissioners, the bill authorizes pawnbrokers to charge not exceeding 2 percent per month, or fraction thereof, upon any loan not exceeding \$200, or more than 1 percent per month, or fraction thereof, upon any loan exceeding \$200 and not exceeding \$1,000, and 8 percent per annum (the maximum statutory rate now in effect) on any loan in excess of \$1,000.

Section 10 prohibits the charging of interest in excess of the existing statutory rate of 6 percent per annum, or 8 percent per annum upon an instrument in writing, by any person except a licensee under the act and declares invalid any instrument evidencing a loan made in the District in violation of the provisions of the bill.

Section 11 requires every pawnbroker to record in a book at the time of each loan an accurate account and description of the goods pawned, the amount of money loaned thereon, the time of pledging the same, and the rate of interest to be paid on such loan, the name and residence of the person pawning such goods together with a description of such person; requires that the book at all reasonable times be open to inspection by the Commissioners, and prohibits disclosure by any officer of the District of entries in such book to any person other than an official having a right thereto in his official capacity.

Section 12 requires every pawnbroker at the time of each loan to deliver to any person pawning any goods a memorandum signed by him containing the substance of the entry required to be made by him in this book.

Section 13 prohibits any pawnbroker from selling any pawned article until the same has remained 1 year in his possession, unless with the consent of the pawner. It also provides that all sales shall be made at public auction and shall be made or conducted by licensed auctioneers.

Section 14 requires that notice of every such sale be published at least 6 days prior thereto in 1 or more daily newspapers printed in the District, such notice to specify the time and place where such sale is to take place, the name of the auctioneer and a description of the article to be sold. In addition the pawnbroker is required to mail to the pawner a copy of such notice.

Section 15 provides that the surplus money, if any, arising from any such sale, after deducting the interest then due and the expenses of advertising any such sale, shall be paid over by the pawnbroker to the person who would be entitled to redeem the pledge in case no such sale had taken place.

Section 16 provides penalties for violation of the act of fine of not more than \$300 or imprisonment for not more than 90 days; declares

that any contract of loan from which any act shall have been done which constitutes a violation of the bill shall be void and that the lender shall have no right to collect or receive any principal or charges whatsoever on account thereof.

Section 17 authorizes the Commissioners to make and enforce such regulations as they deem necessary to carry out the purposes of the act.

Section 18 exempts from application of the act, firms, stock companies and credit unions doing business in the District of Columbia under the supervision of the Federal Reserve System, Comptroller of the Currency, Federal Deposit Insurance Corporation, the Home Loan Bank Board, the Federal Savings and Loan Insurance Corporation, or the Department of Health, Education, and Welfare, or to loans made by them.

Section 19 repeals the act of February 4, 1913, as amended, insofar as the same applies to the business of lending money on the security of pledge and possession of tangible personal property.

Section 20 provides if any provision of the act be held invalid the remainder of the act shall not be affected thereby.

Section 21 provides that the act shall take effect at the expiration of 60 days after the date of its approval.

#### CHANGES IN EXISTING LAW

In compliance with paragraph 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as introduced, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

#### 37 STAT. 657, CH. 26

[That it shall be unlawful and illegal to engage in the District of Columbia in the business of loaning money upon which a rate of interest greater than six per centum per annum is charged on any security of any kind, direct or collateral, tangible or intangible, without procuring license; and all persons, firms, voluntary associations, joint-stock companies, incorporated societies, and corporations engaged in said business shall pay a license tax of five hundred dollars per annum to the District of Columbia. No license shall be granted to any person, firm, or voluntary association unless such person and the members of any such firm, or voluntary association shall be bona fide residents of the District of Columbia, and no license shall be granted for a period longer than one year, and no license shall be granted to any joint-stock company, incorporated society, or corporation unless and until such company, society, or corporation shall, in writing and in due form, to be first approved by and filed with the commissioners of the District of Columbia, appoint an agent, resident in the District of Columbia, upon whom all judicial and other process or legal notice directed to such company, society, or corporation may be served. And in the case of death, removal from the District, or any legal disability or disqualification of any such agent, service of such process or notice may be made upon the Superintendent of Licenses of the District of Columbia.

[SEC. 2. That applications for license to conduct such business must be made in writing to the Commissioners of the District of

Columbia, and shall contain the full names and addresses of applicants, if natural persons, and in the case of firms and voluntary associations, the full names and addresses of all the members thereof, and in the case of joint-stock companies, incorporated societies, and corporations, the full names and addresses of the officers and directors thereof and under what law or laws organized or incorporated, and the place where such business is to be conducted, and such other information as the said commissioners may require. Every license granted shall date from the first of the month in which it is issued and expire on the 31st day of the following October, and such license shall be kept conspicuously displayed in the place of business of the licensee. Every application shall be filed not less than thirty days prior to the granting of such license, and notice of the filing of such application shall be posted in the office of the Superintendent of Licenses of the said District and be published twice a week for three successive weeks in a daily newspaper published in the District of Columbia. Protest may be made by any person to the issuing of such license, and when such protests are filed with the said commissioners the latter shall give public notice of and hold a public hearing upon such protests before issuing such license. The said commissioners shall have the power to reject any application for license after a hearing upon such protest or for failure on the part of the applicant to observe this chapter, or when such applicant shall have violated its provisions.

[SEC. 3. That each application shall be accompanied by a bond to the District of Columbia in the penal sum of five thousand dollars, with two or more sufficient sureties, and conditioned that the obligor will not violate any law relating to such business. The execution of any such bond by a fidelity or surety company authorized by the laws of the United States to transact business therein shall be equivalent to the execution thereof by two sureties, and such company, if excepted to, shall justify in the manner required by law of fidelity and surety companies. If any person shall be aggrieved by the misconduct of any such licensed person, firm, voluntary association, joint-stock company, incorporated society, or corporation, or by his, their, or its violation of any law relating to such business, and shall recover a judgment therefor, such person or his personal representative or heirs or distributees may, after a return unsatisfied either in whole or in part of any execution issued upon such judgment, maintain an action in his own name upon such bond herein required in any court having jurisdiction of the amount claimed. The commissioners of the District of Columbia shall furnish to anyone applying therefor a certified copy of any such bond filed with them, upon the payment of a fee of twenty-five cents, and such certified copy shall be prima facie evidence in any court that such bond was duly executed and delivered by the person, firm, voluntary association, joint-stock company, incorporated society, or corporation whose names appear thereon. Said bond shall be renewed and refilled annually in October of each year, or the licensed person, firm, voluntary association, joint-stock company, incorporated society, or corporation shall within thirty days thereafter, cease doing business, and their license shall be revoked by the said commissioners, but said bond until renewed and refilled as aforesaid shall be and remain in full force and effect.

[SEC. 4. That every person, firm, voluntary association, joint-stock company, incorporated society, or corporation conducting such busi-

ness shall keep a register, approved by said commissioners, showing in English, the amount of money loaned, the date when loaned and when due, the person to whom loaned, the property or thing named as security for the loan, where the same is located and in whose possession, the amount of interest, all fees, commissions, charges, and renewals charged, under whatever name. Such register shall be open for inspection to the said commissioners, their officers and agents, on every day, except Sundays and legal holidays, between the hours of nine o'clock in the forenoon and five o'clock in the afternoon. Every such person, firm, voluntary association, joint-stock company, incorporated society, or corporation conducting such business shall, on or before the 20th day of January of each year, make to the said commissioners an annual statement in the form of a trial balance of its books on the 31st day of December in each year, specifying the different kinds of its liabilities and the different kinds of its assets, stating the amount of each, together with such other information as may be called for.

[SEC. 5. That no such person, firm, voluntary association, joint-stock company, incorporated society, or corporation shall charge or receive a greater rate of interest upon any loan made by him or it than one per centum per month on the actual amount of the loan, and this charge shall cover all fees, expenses, demands, and services of every character, including notarial and recording fees and charges, except upon the foreclosure of the security. The foregoing interest shall not be deducted from the principal of loan when same is made. Every such person, firm, voluntary association, joint-stock company, incorporated society, or corporation conducting such business shall furnish the borrower a written, typewritten, or printed statement at the time the loan is made, showing in English, in clear and distinct terms, the amount of the loan, the date when loaned and when due, the person to whom the loan is made, the name of the lender, the amount of interest charged, and the lender shall give the borrower a plain and complete receipt for all payments made on account of the loan at the time such payments are made. No such loan greater than two hundred dollars shall be made to any one person: *Provided*, That any person contracting, directly or indirectly, for, or receiving a greater rate of interest than that fixed in this chapter, shall forfeit all interest so contracted for or received; and in addition thereto shall forfeit to the borrower a sum of money, to be deducted from the amount due for principal, equal to one-fourth of the principal sum: *And provided further*, That any person in the employ of the Government who shall loan money in violation of the provisions of this chapter shall forfeit his office or position, and be removed from the same.

[SEC. 6. That complaints against any licensee or applicant for a license shall be made in writing to the said commissioners, and notice thereof of not less than three days shall be given to said licensee or applicant by serving upon him a concise statement of the facts constituting the complaint, and a hearing shall be had before the said commissioners within ten days from the date of the filing of the complaint, and no adjournment shall be taken for longer than one week. A daily calendar shall be kept of all hearings by the said commissioners, which shall be posted in a conspicuous place in their public office for at least three days before the date of such hearings. The said commissioners shall render their decision within eight days from the time

the matter is finally submitted to them. Said commissioners shall keep a record of all such complaints and hearings, and may refuse to issue and shall suspend or revoke any license for any good cause shown, within the meaning and purpose of this chapter; and when it is shown to their satisfaction, whether as a result of a written complaint as aforesaid or otherwise, that any licensee or applicant under this chapter either before or after conviction, is guilty of any conduct in violation of this or any law relating to such business it shall be the duty of the said commissioners to suspend or revoke the license of such licensee or reject the petition of the applicant, but notice of the written complaint or proposed action shall be presented to and reasonable opportunity shall be given said licensee or applicant to be heard in his defense. Whenever for any cause such license is revoked, said commissioners shall not issue another license to said licensee until the expiration of at least one year from the date of revocation of such license, and not at all if such licensee shall have been convicted of a violation of this chapter under the provisions of the following sections thereof.

[SEC. 7. That any violation of this chapter shall be punished by a fine of not less than twenty-five dollars and not greater than two hundred dollars, or by imprisonment in the jail or the workhouse of the District of Columbia for not less than five nor more than thirty days, or by both such fine and imprisonment, in the discretion of the court. The said commissioners shall cause the corporation counsel to institute criminal proceedings for the enforcement of this chapter before any court of competent jurisdiction.

[SEC. 8. That in any foreclosure on any loan made under this chapter no charges for attorneys' or agents' fees shall be made or collected which will exceed ten per centum of the amount found due in such foreclosure proceedings.

[SEC. 9. That in any contract made in pursuance of the provisions of this chapter it shall be unlawful to incorporate any provision for liquidated or other damages as a penalty for any default or forfeiture thereunder.

[SEC. 10. That nothing contained in this chapter shall be held to apply to the legitimate business of national banks, licensed bankers, trust companies, savings banks, building and loan associations, or real estate brokers, as defined in the Act of Congress of July first, nineteen hundred and two.

[SEC. 11. That the enforcement of this chapter shall be intrusted to the Commissioners of the District of Columbia, and they are hereby authorized and empowered to make all rules and regulations necessary in their judgment for the conduct of such business and the enforcement of this chapter in addition hereto and not inconsistent herewith.]

